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10/620,761	07/17/2003	Jean-Louis Gueret	124371	9154

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EXAMINER

MANAHAN, TODD E

ART UNIT PAPER NUMBER

3732

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/620,761

Applicant(s)

GUERET, JEAN-LOUIS

Examiner

Todd E. Manahan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-99 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-99 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
Todd E. Manahan  
Primary Examiner

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 16-32, 49-67 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims, as amended, recite “two hinges interconnecting two of the containers” (claim 16) or “at least two hinges enabling one of the containers to be pivoted relative to another” (claim 49), however such embodiments wherein two of the containers are connected to each other by “two hinges” was not disclosed in the application as originally filed. As originally disclosed, two containers are connected to each other by only a single hinge. Therefore, the recitations of “two hinges interconnecting two of the containers” (claim 16) or “at least two hinges enabling one of the containers to be pivoted relative to another” (claim 49) constitutes NEW MATTER.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10, 25, 39, and 58 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 is redundant of the subject matter of claim 1 as amended.  
Claim 25 is redundant of the subject matter of claim 16 as amended.  
Claim 39 is redundant of the subject matter of claim 34 as amended.  
Claim 58 is redundant of the subject matter of claim 49 as amended.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

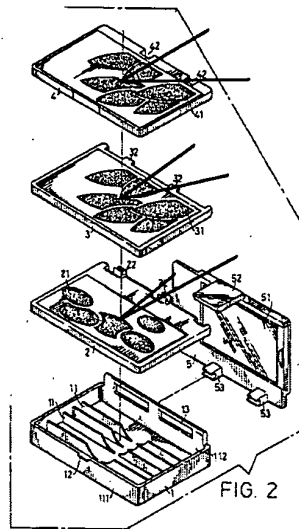
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 16-26, 28-41, 43-60, 62-67, and 85-97 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen (United States Patent No. 4,821,751).

Chen discloses a device. The device comprises at least three containers 2,3,4. The containers are configured in such a manner as to be superposed on a stacking axis (see figure 1). One of the containers 2 comprises a lid (bottom of container 3) with a hinge and the other container is added to the lid (i.e. formed thereon). Each container defines a housing. The hinges enable the containers to be pivoted relative to one another about an axis not parallel to the stacking axis (see figure 3, the stacking axis being contained in the plane of the page and the axis about which the containers may pivot is perpendicular to the page). The containers contain different substances. The hinges are “angularly offset around the stacking container” as can be

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seen in figure 2 where the stacking axis is shown by the center line passing through all of containers 1,2,3,4 and the hinges 22,32,42 are each set at a different angle from this axis (for further clarification, see figure 2 reproduced below showing these angles).



Regarding claim 17, the device is configured in such a manner that the housings can be opened independently of one another. Regarding claims 18-20, each container comprises a lid, i.e. the bottom of the container directly above with the top most container including lid 5. Regarding claims 21 and 22, all of the housings are closed in a "sealed manner" when the containers are superposed. Regarding claim 24, there are more than two hinges as can be clearly seen in the drawings. Regarding claims 31-33, the device includes a receptacle 1 to which it is attached. Regarding claim 85, the receptacle 1 is of a different shape than containers 2,3,4.

Claims 85-99 are rejected under 35 U.S.C. 102(e) as being anticipated by Okamoto (United States Patent No. 6,491,041).

Okamoto discloses a receptacle. The receptacle comprises a receptacle body 3 and a closure cap 8 configured to be removably fixed to the receptacle body by threads 7. The cap

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comprises at least two containers configured in such a manner as to be superposable on a stacking axis. A hinge enables one of the containers to be pivoted relative to the other, at least partially, about an axis of rotation that is not parallel to the stacking axis (see figure 2, the stacking axis being contained in the plane of the page and the axis about which the containers may pivot is perpendicular to the page). The receptacle body is of a different shape than the containers. At least one of the containers is fixed in a removable manner to the container immediately beneath it (see figure 3). One of the housings contains a cosmetic product 11.

### ***Claim Rejections - 35 USC § 103***

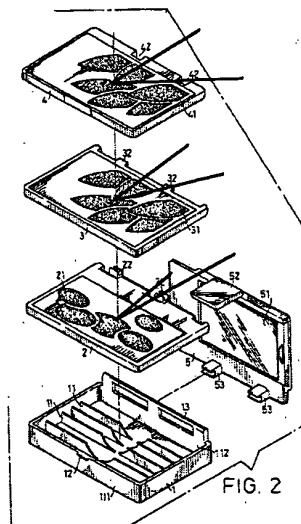
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 13-15, 27, 42, 61, 68-78, 81-84, and 98 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen (United States Patent No. 4,821,751).

Chen discloses a device. The device comprises at least two containers 2,3,4. The containers are configured in such a manner as to be superposed on a stacking axis (see figure 1). One of the containers 2 comprises a lid (bottom of container 3) with a hinge and the other container is added to the lid (i.e. formed thereon). Each container defines a housing. Chen however does not disclose one of the housings having an applicator member. However, it would have been blatantly obvious to one skilled in the art to provide one of the housings with an

applicator member in order to allow the user to conveniently apply the lipstick, crème makeup and eye shadow. Regarding claim 2, the device is configured in such a manner that the housings can be opened independently of one another. Regarding claims 3 and 4, each container comprises a lid, i.e. the bottom of the container directly above with the top most container including lid 5. Regarding claim 5, all of the housings are closed in a "sealed manner" when the containers are superposed. Regarding claim 6, the hinges enable the containers to be pivoted relative to one another about an axis not parallel to the stacking axis (see figure 3, the stacking axis being contained in the plane of the page and the axis about which the containers may pivot is perpendicular to the page). Regarding claim 7, there are more than two hinges as can be clearly seen in the drawings. Regarding claim 8, the hinges are "angularly offset around the stacking container" as can be seen in figure 2 where the stacking axis is shown by the center line passing through all of containers 1,2,3,4 and the hinges 22,32,42 are each set at a different angle from this axis (for further clarification, see figure 2 reproduced below showing these angles).



Regarding claim 9, see col. 2, lines 7-10. Regarding claims 14 and 15, the device includes a receptacle 1 to which it is attached. Regarding claim 68, the containers are detachable from one another, i.e. removable (see col. 2, lines 4-6, lines 67-68).

Claims 1-7, 9-12, 15, 68-76, 78-80, and 83-84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petruzzi (United States Patent No. 5,699,925).

Petruzzi discloses a device. The device comprises at least two containers 10, 10a, 10b. The containers are configured in such a manner as to be superposed on a stacking axis (see figure 1). One of the containers comprises a lid with a hinge and the other container is added to the lid. Each container defines a housing. Petruzzi, however does not disclose one of the housings containing an applicator member. It would have been obvious to one skilled in the art to place an applicator, e.g. sponge, cotton ball, swab, etc., in one of the housings if that is what the user desired to store in the container. It is well known to store such common household items in storage containers. Regarding claim 2, the device is configured in such a manner that the housings can be opened independently of one another. Regarding claims 3 and 4, each container comprises a lid. Regarding claim 5, all of the housings are closed in a "sealed manner" when the containers are superposed. Regarding claim 6, the hinges enable the containers to be pivoted relative to one another about an axis not parallel to the stacking axis (see figure 9, the stacking axis being contained in the plane of the page and the axis about which the containers may pivot is perpendicular to the page). Regarding claim 7, there are more than two hinges as can be clearly seen in the drawings. Regarding claim 9, it would have been further obvious to contain a cosmetic or care product, e.g. soap, bottles of shampoo, lipsticks, compacts, etc., in one of the housings if that is what the user desired to store in the container. It is well known to store such



items in storage containers. Regarding claims 11 and 12, see figures 3, 5, 11a-11c. Regarding claim 15, bottom container 10b constitutes a “receptacle” and it is fitted with a device comprising at least 2 containers 10,10a assembled in a manner according to claim 1.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-99 have been considered but are moot in view of the new ground(s) of rejection.

Although the previous Office Action included a rejection based upon Okamoto, the listing of claims readable thereon was inadvertently omitted. However, the amendment to claim 85 of “the receptacle body being of different shape than the containers” necessitated the new grounds of rejection being applied thereto based upon Okamoto.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd E. Manahan whose telephone number is 571 272- 4713. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Todd E. Manahan  
Primary Examiner  
Art Unit 3732

T.E. Manahan  
28 June 2006

A handwritten signature in black ink, appearing to read 'T.E. Manahan', is written over a horizontal line.